IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 24594 of 1999

Between:

M/s. Inducto Ispat Alloys (P) Ltd., "Inducto House" Plot

No.124, N.F.C.L. Road, Kakinada rep. by its
Accountant Sri B.C. Shukla .

..... PETITIONER

AND

1 Commercial Tax Officer-I, Kakinada.
2 Appellate Deputy Commissioner (CT), Kakinada.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ or order or direction, particularly one in the nature of Writ of Certiorari after calling for the records and quash the proceedings of the second respondent dated 21.07.99 passed in Spl.Regr.No.35/99-2000 and remand the matter to the first respondent to make a denovo assessment.

For the Petitioner: Mr.S.Krishna Murthy, Advocate.

For the Respondents: Spl GP for Taxes.

The Court made the following:

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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE C.V. RAMULU

WRIT PETITION NO. 24594 OF 1999

ORDER: (per Sri B. Sudershan Reddy, J)

The Appellate Deputy Commissioner (CT), Kakinada, the 1st respondent herein dismissed the appeal preferred by the petitioner herein by the impugned order dated 21-07-1999 on the ground that there is a delay of 62 days in preferring the appeal. The Appellate Deputy Commissioner having noted the proviso made to sub-Section (1) of Section 19 of the Central Sales Tax Act (for short 'the Act') as introduced with effect from 01-04-1995 and substituted with effect from 04-01-1997 held that the appellate authority has no power to condone the delay and admit the appeal preferred after a period of 30 days. The appeal preferred can be accepted even if it is filed with a delay of 30 days from the actual date of filing of the same, provided sufficient reason is shown for such delay. In the instant case, admittedly there is a delay of 62 days, which could not have been condoned by the appellate authority since it has no such jurisdiction to condone the delay beyond the period of 30 days.

It is brought to our notice that this Court in ***Rekha Timber Depot & Ors Vs. DCTO, Prakasam District & Ors*** upheld the validity of first proviso to sub-Section (1) of Section 19 and as well as sub-Section (2) of Section 21 of the Act.

In such view of the matter, no relief could be granted to the petitioner in this writ petition. The Writ Petition shall accordingly stand dismissed without any order as to costs.

(B. Sudershan Reddy, J)

26-04-2005

(C.V. Ramulu, J)

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To,

1 Commercial Tax Officer-I, Kakinada.
2 Appellate Deputy Commissioner (CT), Kakinada.

3. Two CCs to the Special Government Pleader for Taxes, High Court of Andhra Pradesh, Hyderabad (OUT).

4. Two CD copies.